

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Thomas Regan and Patti Regan, )  
as Surviving Parents of )  
Marlow Regan, Deceased, )      **ORDER ADOPTING STIPULATION**  
)  
Plaintiffs, )  
)  
vs. )  
)      Case No. 1:08-cr-034  
Nissan North America, Inc., )  
)  
Defendant. )

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Before the Court is a “Stipulated Protective Order Concerning Vehicle Preservation” filed on April 28, 2008. The Court **ADOPTS** the stipulation (Docket No. 24) and **ORDERS**:

1. The 1993 Nissan Pathfinder (Vehicle Identification Number JN8HD17Y1RW212624) that is the subject of this litigation, shall continue to remain in the possession of the plaintiffs, Thomas Regan and Patti Regan and/or their counsel up to and through the time of trial in this matter, including the running of any time for appeals. Further, plaintiffs and/or their counsel shall maintain the 1993 Nissan Pathfinder in its current and immediate post-accident condition, up to and through the time of trial, including the running of any time for appeals.

2. No party shall conduct any disposal, disassembly, removal of any component part, alteration, modification, or destructive testing of the subject vehicle involved, and/or any of its component parts relevant to the accident in question, except under the following, specific circumstances:

a. Written notice shall be given to counsel for each party setting forth the date, time and location of any intended disposal, disassembly, removal of any component parts,

alteration, modification, or destructive testing of the subject vehicle involved and/or any of its component parts, and a proposed protocol. Such notice shall be given not less than twenty-one (21) days prior to the date on which the event is scheduled, and shall contain a detailed and meaningful description of the activities contemplated, including the names of all involved, by the inspecting party. The 21-day notice period may be altered by agreement of all counsel or by further order of this Court.

b. Any objections to any such inspection, disposal, disassembly, removal of component parts, modification, alteration or destructive testing shall be brought to the attention of the Court, in writing, not less than seven (7) days prior to the date on which such activity is scheduled to take place. Once an objection has been filed with the Court, any disposal, disassembly, removal of component parts, modification, alteration, or destructive testing of the subject vehicle involved and/or of its component parts, shall be delayed until the Court has had an opportunity to rule upon the objection filed.

c. In the even there is no objection raised seven (7) days prior to the contemplated activity, then each party shall have the right to be present, with its representatives, to observe, photograph, and videotape (no audio) all of the above-referenced activities conducted with regard to the subject vehicle involved and/or of its component parts.

d. Once component parts have been removed from the subject vehicle, they shall remain in the custody of the plaintiffs or plaintiffs' experts. At the request of opposing counsel, the component parts will be adequately packaged and shipped either directly to the opposing counsel or experts retained by opposing counsel, as long as they are ultimately

returned to plaintiffs or plaintiffs' experts. All parties and their experts will conduct their inspection in accordance with this protective order.

3. The procedures set forth in this Order may be modified only by further order of this Court or by written agreement of all counsel of record for the plaintiffs and the defendant, but absent such prior written agreement by named counsel of record, this Order shall govern any activities taken with regard to the subject vehicle and/or its component parts.

**IT IS SO ORDERED.**

Dated this 29<sup>th</sup> day of April, 2008.

*/s/ Daniel L. Hovland*

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Daniel L. Hovland, Chief Judge  
United States District Court